

Message Text

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TO USMISSION OECD PARIS

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FOLLOWING REPEAT STATE 188108 ACTION BERN BONN BRUSSELS
CANBERRA DUBLIN GENEVA HELSINKI LONDON MUNICH OTTAWA
PARIS ROME STOCKHOLM TOKYO WELLINGTON INFO USUN NEW YORK
EC BRUSSELS DATED 8 AUG 75
QUOTE

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E.O. 11652: N/A

TAGS: AORG, ETRD, TECH, UNCTAD

SUBJECT: UNCTAD MEETING ON THE ROLE OF PATENTS IN TRANSFER
OF TECHNOLOGY

1. SUMMARY. THE UNCTAD SECRETARIAT IS CONVENING THE FIRST
SESSION OF ITS GROUP OF EXPERTS ON THE ROLE OF THE PATENT
SYSTEM IN THE TRANSFER OF TECHNOLOGY FROM SEPTEMBER 1-12 IN
GENEVA. THE DOCUMENTS FOR THIS MEETING WHICH THE SECRETAR-
IAT IS PREPARING ARE STILL NOT AVAILABLE AT THIS LATE DATE.
HOWEVER, IT IS THE DEPARTMENT'S UNDERSTANDING THAT A MAJOR
AGENDA ITEM ON DETAILED PROPOSALS FOR REVISION OF THE PARIS
CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY WILL
PROBABLY BE PROPOSED FOR THE SEPTEMBER MEETING. WE BELIEVE
THAT THIS PROPOSAL MAY BE MADE AT THE CURRENT UNCTAD TRADE
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AND DEVELOPMENT BOARD MEETING WHICH ENDS ON AUGUST 15.

THIS SUBJECT IS CLEARLY AND EXCLUSIVELY WITHIN THE JURISDICTION OF THE WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO) WHICH IS THE SECRETARIAT FOR THE PARIS CONVENTION. AS A MATTER OF FACT, WIPO ALREADY IS UNDERTAKING A DETAILED STUDY OF A POSSIBLE REVISION OF THE PARIS CONVENTION THROUGH AN AD HOC GROUP OF GOVERNMENTAL EXPERTS ON REVISION OF THE PARIS CONVENTION WHICH MET IN FEBRUARY 1975 AND IS SCHEDULED TO MEET AGAIN IN DECEMBER 1975. FOR THIS REASON IN THE FIRST INSTANCE THE U.S. OPPOSES UNCTAD'S CONSIDERATION OF THE LEGAL AND TECHNICAL ASPECTS OF REVISION OF THE PARIS CONVENTION. AS A FALL-BACK POSITION, WE WOULD BE PREPARED TO SEEK POSTPONEMENT OF THE SEPTEMBER MEETING, PREFERABLY AFTER THE DECEMBER WIPO MEETING. WE WOULD STRESS THE FACT THAT THERE ARE NO UNCTAD DOCUMENTS YET AVAILABLE ON THIS COMPLEX LEGAL-TECHNICAL SUBJECT AND IT WILL NOT BE POSSIBLE FOR DELEGATIONS TO STUDY, CONSULT, AND DEVELOP THEIR POSITIONS IN TIME FOR A SEPTEMBER 1 MEETING. ADDRESSEE POSTS ARE REQUESTED TO CONTACT THE HEADS OF THE INDUSTRIAL PROPERTY (PATENT) OFFICES, OR OTHER APPROPRIATE OFFICIALS, TO MAKE KNOWN THE U.S. VIEWS, AND SUGGEST THAT A GROUP B POSITION ON THIS QUESTION BE FORMULATED AND COORDINATED ASAP. END SUMMARY.

2. THE UNCTAD SECRETARIAT IS PREPARING AT LEAST THREE NEW DOCUMENTS FOR THE SEPTEMBER 1-12 MEETING OF THE GROUP OF EXPERTS ON PATENTS. ALTHOUGH THESE DOCUMENTS ARE NOT YET ISSUED, RELIABLE SOURCES REPORT THAT AT LEAST ONE OF THESE CALLS ON THE UNCTAD TO PLAY AN ACTIVE ROLE IN CONSIDERING DETAILED AND SPECIFIC PROPOSALS FOR REVISION OF THE PARIS CONVENTION THAT WIPO IS CURRENTLY ACTIVELY STUDYING. WIPO WAS INSTRUCTED TO MAKE ITS STUDY ON THESE PROPOSALS BY AN AD HOC GROUP OF GOVERNMENTAL EXPERTS ON THE REVISION OF THE PARIS CONVENTION WHICH WIPO CONVENED IN FEBRUARY 1975.

3. AS A FIRST POSITION, WE OPPOSE CONSIDERATION BY UNCTAD OF PROPOSALS FOR REVISION OF THE PARIS CONVENTION ON THE FOLLOWING GROUNDS:

- WIPO, A SPECIALIZED AGENCY OF THE UN, IS ENTIRELY RESPONSIBLE FOR THE PARIS CONVENTION, AND IN FACT ADMINISTERED LIMITED OFFICIAL USE

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TERS IT. MORE SPECIFICALLY, THE INTERNATIONAL BUREAU OF WIPO IS CHARGED WITH THE RESPONSIBILITY OF MAKING PREPARATIONS FOR REVISION OF THE PARIS CONVENTION UNDER ARTICLE 15(7)(A) OF THAT CONVENTION.

- IN SEPTEMBER 1974 THE MEMBER STATES OF WIPO ASKED THE DIRECTOR GENERAL TO ESTABLISH THE AD HOC GROUP OF GOVERNMENTAL EXPERTS ON REVISION OF THE PARIS CONVENTION. THIS

GROUP HELD ITS FIRST MEETING FROM FEBRUARY 11-17, 1975, AT WHICH 47 COUNTRIES WERE REPRESENTED AND UNCTAD WAS AN OBSERVER. THIS MEETING'S SOLE PURPOSE WAS TO CONSIDER REVISION OF THE PARIS CONVENTION, INCLUDING MOST ESPECIALLY A LIST OF 14 KEY QUESTIONS ON REVISING THE CONVENTION TO MAKE IT MORE RESPONSIVE TO THE NEEDS OF DEVELOPING COUNTRIES. THESE QUESTIONS WERE ACTUALLY PROPOSED AND APPROVED BY THE AD HOC GROUP. THE WIPO AD HOC GROUP OF EXPERTS WILL MEET AGAIN FROM DECEMBER 15-22, 1975 TO CONSIDER WIPO'S ANALYSIS OF THESE QUESTIONS.

- UNCTAD'S CONSIDERATION OF THESE QUESTIONS SIGNIFIES AN OBVIOUS DUPLICATION OF WORK BY UN BODIES AND A WASTE OF RESOURCES. IT IS A BLATANT ENCROACHMENT ON THE JURISDICTION OF WIPO. UNCTAD'S EFFORTS TO SEIZE DOMAIN OVER LONG-STANDING WIPO'S JURISDICTION IS VIEWED WITH ALARM BY USG.

4. I VIEW OF THE DEVELOPING COUNTRY MAJORITY IN THE TRADE AND DEVELOPMENT BOARD, IT MAY BE DIFFICULT TO OBTAIN A MAJORITY OR CONSENSUS VIEW THAT UNCTAD SHOULD NOT CONSIDER REVISION OF THE PARIS CONVENTION ON JURISDICTIONAL GROUNDS. THEREFORE, AS A FALL-BACK WE WOULD BE PREPARED TO SEEK POSTPONEMENT OF THE MEETING OF THE UNCTAD GROUP OF EXPERTS IN SEPTEMBER UNTIL 1976, AFTER THE DECEMBER 1975 WIPO AD HOC MEETING ON REVISION OF THE PARIS CONVENTION. THIS POSTPONEMENT COULD BE BASED ON TWO GROUNDS: (A) IT IS NOW ALMOST THE MIDDLE OF AUGUST AND NO UNCTAD DOCUMENTS ON THIS COMPLEX LEGAL-TECHNICAL SUBJECT ARE YET AVAILABLE. ANY CONSIDERATION OF THIS SUBJECT WILL REQUIRE CAREFUL PREPARATION AND DEVELOPMENT OF GOVERNMENT POSITIONS AFTER CONSULTATION WITH ALL INTERESTED PARTIES. CLEARLY TIME IS NOT AVAILABLE FOR SUCH STUDY BEFORE SEPTEMBER 1. (B) IT MAY ALSO BE POINTED OUT THAT WIPO HAS ALREADY BEEN STUDY-LIMITED OFFICIAL USE

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ING IN DEPTH 14 KEY QUESTIONS ON POSSIBLE REVISION OF THE PARIS CONVENTION PROPOSED BY THE WIPO AD HOC GROUP OF EXPERTS, INCLUDING MANY DEVELOPING COUNTRIES. THIS STUDY SHOULD BE AVAILABLE IN THE FALL. THE WIPO STUDY AND THE RESULTS OF ITS CONSIDERATION BY THE WIPO AD HOC GROUP OF EXPERTS IN DECEMBER 1975 CLEARLY SHOULD BE TAKEN INTO ACCOUNT BY THE UNCTAD GROUP OF EXPERTS.

5. ACTION REQUESTED:

A. THE USG IS OF THE OPINION THAT A COMMON GROUP B POSITION ON THIS MATTER IS IMPORTANT. STRATEGICALLY, ACHIEVEMENT OF U.S. OBJECTIVES REQUIRES THAT THE DEVELOPED COUNTRIES OF GROUP B CONFRONT THE ISSUE AS A BLOCK IF AT ALL POSSIBLE. ADDRESSEE POSTS ARE REQUESTED TO NOTIFY THE

APPROPRIATE INDUSTRIAL PROPERTY OFFICES (IN MOST CASES THE HEAD OF THE PATENT OFFICE) OF THE U.S. POSITION IN PARAGRAPHS 3 AND 4 ABOVE.

B. POSTS SHOULD ALSO POINT OUT URGENCY OF MATTER SINCE UNCTAD TRADE AND DEVELOPMENT BOARD, WHERE DECISION ON THIS MATTER WILL PROBABLY BE TAKEN, IS CURRENTLY MEETING IN GENEVA. THEREFORE ANY INSTRUCTIONS TO THEIR REPRESENTATIVES IN GENEVA AT UNCTAD MEETING WILL HAVE TO BE MADE URGENTLY.

C. REQUEST REPORT BY CABLE ANY REACTION TO THESE PROPOSALS ASAP, REPEATED INFO GENEVA.

6. IN VIEW OF SHORT TIME AVAILABLE, DEPARTMENT APPRECIATES EFFORTS OF ADDRESSEE POSTS ON THIS IMPORTANT MATTER.

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